1: Messing E-5 (1953-1954)1957 MP5 Amhara MP5

463 prestige involved is slight--occurring only if there is
464 kinfolk nearby shamed by such manual labor. It is on a social level with the gathering of kosso-bark by a poor Amhara woman.

463 [324] Some farmers have a part-time specialty of fashioning the stone used as mano by the housewife when she grinds grain. They are called "wäqari". No shame is involved; it is considered like a hobby, like whittling away at wood.

[693 554] Some heads of farming families are adept at "talking well in court" for which they achieve great prestige--the major method of achieving prestige. They are called "täbäqa" lawyers, and not full-time specialists since all they can expect, if they win the case, is a bellyful of barley beer or an occasional gift, but they are guests of honor at the victory feasts and "men of reknown".

A large number of semi-specialists fall into the [23] category of caretakers, "täbaqi". Cowherds and shepherds, if they are grown men not useful at anything else, are included in this category.

463 265 Part-time employment is found by the former feudal chamberlain, "agafari", at big weddings of landholding peasants or in towns. They act as caterers, order the bread, meat, beer, mead, etc. They are experts at headwaiting, and know just whom to seat at what table or around which "mäsob", according to rank, and they indicate to each servant to whom to serve beer and to whom the more expensive and more noble mead. This was

672 agreement must be before witnesses, again with use of the oath "Haile Selassie yemut" (May the emperor die, if I break my word). Often a judge will not release the loser of either a criminal or civil case unless he can produce a personal guarantor who will guarantee that the damages or fine will be paid.

562 672 Women, under the traditional laws, were considered legal persons but to a lesser degree than men. They could act as witnesses only of what they had actually seen or heard, and were warned not to "interpret" their testimony. Sometimes there were threatened with jail if their testimony seemed contradictory and not entirely useful. On a lower level were slaves, who were not legal persons, but whose testimony on what they had directly witnessed could be heard in court, subject to evaluation by the judge.

567 672

C. Judicial Personnel

693 694 (1) The Curbstone Judge. He is sometimes referred to as "yäqalatē danya" (lit. delegate judge). Two persons having a quarrel may stop a respected passerby whom they consider a peer, often a bearded "shemagalye" (elder), to arbitrate their quarrel. They stop him in his tracks by calling out "Haile Selassie yemut", or if they or he are very old fashioned and dignified, in the Geez version of the oath "Be-Hayle Selassie Amlak" ("in the name of the God of Haile Selassie").

693 694 If the quarrel is a civil matter, the curbstone judge usually acts merely as arbitrator ("aqoraṉ"). He is rewarded by the loser, who has forfeited his "mger", usually with several "berellē" (glass bottles) of beer.

If, however, personal injury or some other criminal matter seems involved, or if no mutually satisfactory adjustment can be reached, the arbitrator may tie their togas together with a knot, and refer the matter to the cheqa shum.

693 622 The latter then sits as informal judge, to decide whether the matter should be referred to a regular formal judge, the "danya". Meanwhile he tries to arbitrate the case, with the power of his office as village headman lending him added prestige. In church-owned territory he may be a priest. Sometimes he is one of the local Confessors ("mānfās agway"), particularly if it is a marital quarrel. Each of these offices lends the cheqa shum added prestige, for there is no formal separation of church and state organization at the base of the social pyramid. [779]

693 694 (2) The Indicting, Examining Judge. He is called "atbiya danya" (lit. handwashing judge), and his functions are broad, and vary between rural and town locale and between districts and regions. Sometimes the cheqa shum performs this function himself. In town, the atbiya danya may sit under a sycamore at the market, so that any tradesman or purchaser can complain to him about unfair weights or attempted theft. He can issue an immediate "feten," an injunction to cease and desist.

1: Messing E-5 (1953-1954)1957 MP5 Amhara MP5

693 He can summon an offender for later, formal trial be-
694 fore the "danya", and can also summon witnesses to appear. He can order the market police to arrest offenders, or fine them on the spot (up to Eth$25.-). His position somewhat resembles the Arab Bedouin Arifa local judge.[75]

693 In recent years, the "atbiya danya" is sometimes a very young man who is semi-educated, graduate of an 8-year modern elementary school of the provincial capital, who is familiar, or expected to be, with all the latest decrees of the emperor. He thus becomes an "agent of change". But since he has never lived outside the province, he still follows the old pattern of literal interpretation of decrees, with little or vague awareness of thespirit or intent of the new laws. Often he is overzealous, with the brashness of an adolescent promoting half-understood modernization, which annoys or amuses the older, often less modern-educated "danya". Sometimes he functions as police magistrate.

(3) The formal Judge, "dānya". The threat of legal prosecution, "bādanya fit"(before the judge) is often heard in ordinary quarrels, which, however, rarely get this far. The "danya" is appointed by the "awraja shum", the administrative head of the sub-province, in most cases, and he now receives a modest salary. Formerly his income was entirely dependent on the "wagers" placed by plaintiff and defendant, which they had to enter in order to have their case heard at all, and which

75. Bouvat, L.: Le Droit Coutumier des Tribus Bedouines de Syrie. Revue du Monde Musulman, 1921. Tome 43, pp.27-45.

693 was forfeited by the loser. Under the old system a poor man who could not, even with the aid of kinsmen, raise his bet to equal that of his richer opponent, had little recourse to justice except the "abyet".

[66] The old system also left wide opportunities for bribing of judges, for the borderline between a public "wager" and private bribe was thin. In rural areas the pattern of "wager" still persists. But most danya now officiate in the towns, in a "ferd-byet" (lit. Judgment-House), often an Italian-built administrative building; and the court procedure has taken on a more modern pattern, through the gradual effect of the pressure in this [68] direction from Addis Ababa. His fines may range from Eth$25.- to Eth$500.-; prison sentences from one month to one year.

The "danya" is a regular judge in that he sits in judgment all year long, at regular intervals. Wednesdays and Fridays are preferred, because they are light "fast-days", on which the "mind is not weighted down with food", according to the traditinnal attitude. Thus, time and place and frequency of function of the "danya" are formally established in the judicial structure, and form the broad base of this part of social organization.

(4) The Appeals Judge, "wombär" (or, "wänbär", or "wänbär", lit. seat), does not sit as regularly in the "ferd-byet". Several times a year (at least once) he travels on a judicial circuit, and also accompanies the governor-general on his inspection tours. Tradi-

693 tionally the country of Abyssinia had 12 wombär, possibly in allusion to the 12 apostles (as in the "mähabbär" sodality). In the past the wombar were appointed by the "ras" or the"negus". At present they are still usually appointed by the governor-general of the province, who is their immediate superior, and whom they besiege in "daj tenat" for this high office. The old "ras" or "negus" usually had two wombar sit at each side of the throne, but the one sitting at the lord's right, the "qän wombär", outranked the one sitting at his left ("gera wombär"). This seniority in seating is still followed at the court of the modern-attired governor-general. The latter usually reappoints new wombar when he is himself assigned to another province, and since the wombar resides in the provincial capital, he is a permanent part of his official retinue during his tour of office there.

The wombar usually goes on circuit after the main harvest, and "sits" at major market towns to hear appeals. Formerly, the provincial "ras" would sit under the old fig tree, flanked by his wombars, and hold court even on capital punishment cases. The latter are now referred to Addis Ababa, to the High Court. But the wombar is [681] now empowered to assess damages or fines up to Eth$2000.-, to pass prison sentences up to 5 years, and lashes up to 25 (the latter usually in assault cases).

694 Though the principle of "habeas corpus" did not exist in the traditional law, kinfolk of the accused being held by a danya a long time without trial could go to the wombär's court in the town he resided in, and by

625 khaki shorts and with shoes, are now made responsible for guarding the peace.

E. Litigation

691 The Amhara, especially the male, is trained not to suffer any injustice silently (unless temporarily powerless before a "great man"). No matter how lowly his socio-economic class status, he loves to engage in litigation. Observers have sometimes described it as a national pastime. Even children at play argue (fictional) cases, with enthusiasm, debating their cause before their own "judges", draping and undraping a rag from their shoulders, much like adults do their toga, in this activity.

A man is proud to be regarded as one who "speaks well in court". Therefore, he will be ashamed to let [693] another speak for him, and the legal profession flourishes only in Addis Ababa before modern courts, in which modern laws are involved, using European (Greek, Armenian, etc.) lawyers. However, a woman or a timid man, or a timid ex-slave could hire a man who "speaks well in court".

This debate is followed in both civil and criminal cases, before the "danya" or "wombär", and every individual involved, including the gurarantor "(was"), cheqa shum, lebashay, etc., have an opportunity to argue as well as testify.

694 dual's case, the "gubba" gift, continued, and it is often
[66] identical with a bribe. At the same time, the old cus-
178 tom which served as a last resort to a poor person to have his injustice rectified, by appearing with a heavy stone perched on the back of his neck almost crushing him, was abrogated because Europeans looked on this as primitive. The poor man thus has lost his few safeguards, and now is losing evan the right to beg and to create a traffic hazard by throwing himself before the vehicle of
[17] the great man and shouting "abyet". (The practice of carrying the rock resembles that of innocently accused Arab Beduin who appear pressing a blade against their necks to demonstrate and shout their innocence.

178 Transition thus proceeds in unequal shifts, with
671 many culture lags. Modernization of law and justice
643 proceeds from the top, Addis Ababa, down the pyramid. One of the reasons for the circuit-riding of the emperor himself is to remind the chiefs of his realm of his all-seeing and all-hearing power, just as was done in the past. He acts as inspector-general.

The Emperor and his High Court in Addis Ababa stil give lip service to the Fetha Nägäst Code. But in practice, this amounts to little more than rationalization for the benefit of the ultra-conservative Amhara nobles.
693 The position of the "afä negus" (lit. Mouthpiece of the King), who traditionally was the guardian of theFatha Nägäst code, has now become honorary in practice. In the past he was the second-most powerful person in the realm, trusted partly because he was not of the ruling family

1: Messing E-5 (1953-1954)1957 MP5 Amhara MP5

693 and thus not a contender for the throne. He was the chief justice, for he could hear appeals even from the highest court in the land, and act as arbitrator and judge in high-level quarrels between feudal lords and even involving the king himself. His role as chief counselor of the king has now been taken by the "Tsahafi" (lit. scribe), who has risen to that position from that of long-time private secretary, at present Wolda-Giyorgis.

692 The present High Court has original and appellate jurisdiction over all cases in Ethiopia, criminal as well as civil. Majority opinion of the judges prevails. In 1942 a Supreme Imperial Court was appointed to hear appeals from the High Court, but it convenes only intermittently. A secret Crown Court is called together in special treason cases affecting the old nobility, or the officers of the new army.

671 177 A new Civil Law Code is still being worked out, by a series of European jurists invited for that purpose. Meanwhile new decrees are published intermittently in the official "Negarit Gazeta" (lit. the drum gazette), in both Amharic and English. The Attorney-General is a foreigner (for some time Mr. Nathan Marein), but the Minister of Justice, the Legislative Consultative Committee and the President of the High Court are Ethiopians, with a range of modern education from very little to average.

642 The Constitution of 1931, further liberalized in 1955, was a free-will gift of the Emperor. It established a Parliament of two houses, the upper directly appointed,

4: Alvarez M-5 (1520-1526) 1881
MP5 Amhara MP5

this, that they do not cut their beard, and the laity shave below the chin and the throat. There are other priests, whom they call Debeteraas, which means canons; these belong to great churches, which are like their cathedrals or collegiate churches, and are not monasteries. These are very well dressed, and at once appear as what they are: these do not go to the fairs and markets. 793 [302]

CAP. XXX.—*Of the state of the Barnagais and manner of his house, and how he ordered a proclamation to be made to go against the Nobiis,*[1] *and the method of his justice.*

The service of this Barnagais is very poor in state, although he is a great lord and has the title of king. As many times as we spoke to him we always found him seated on a bedstead beneath a coverlid, and himself covered with hairy cotton cloths which they name *basutos*; they are good for the country, and there are some here of a high price. Behind the sides of the bedstead, walls, without anything except four swords hung each on a pole, and two great books, also suspended on poles. In front of the bedstead, mats on the floor, upon which sit those who come; the houses rarely swept, his wife always seated on a mat near the head of the bedstead, many people always before him, the great people seated on mats. In sight of his bedstead stand four horses, one always saddled, and the others covered, not caparisoned for war, but as horses are in the stables. In these houses of his are two inclosures, and each one has its gate, and in it porters with whips in their hands, and in the one nearest to him are smarter porters. Between these gates, the inner one and the outer one, is always his Alicaxi, which means his judge, hearing causes and administering justice. If the cause is important, [231] 693

[1] Nubians.

5: Bruce T-5 (1768-1773) 1804
MP5 Amhara MP5

692 nishes all persons by that authority, even those of the Abuna's family, without any sort of deference paid to him; and this, as appears by the judges, or king's records, is of very ancient standing. The king calls an assembly of the clergy when he pleases, generally with the advice of the Abuna, and there is none considered legal if he is not present, if in the kingdom.

[682] Welled Hayrat (Ras Michael's son) was excommunicated for killing a refugee at the Abuna's feet, in consequence of which he confiscated the Abuna's villages in Tigre, nor was the curse ever taken off *. The Itchegue, or prior of the ● 693 monks, if he be chosen a lay-man, must be ordained by the 793 Abuna. He is named by the king, who nominates all superiors of monasteries. The Lika-cahanat, or chief of the priests, is ordained by the Abuna and Itchegue, who both hold a corner of a scarf put upon him. He is an inquisitor of morals among the priests, and has so much salt and cloth from each district. A priest at his ordination pays three salts to the Abuna. He comes to the house of the latter, enters, and kisses the threshold. The Abuna, sitting on a sofa at one end of the room, reads the Scriptures to himself. Then having paid his salt, the person retires and kisses the threshhold, returning without imposition of hands, or any ceremony. Old men are made priests, and young men deacons by a simple jussit. More probable accounts say, that there is only one salt paid, that the person stands at the door, while the Abuna, having made the sign of the cross, holding it in his hand, says, "I have ordained you a priest." The person then enters the room, kisses the cushion of the sofa, and retires. Many are ordained that can neither read nor write.

[764] The Abyssinians have an office for the dead; and worship 778 pictures of saints, even such as are not consecrated. This we had an opportunity of seeing, every time we were obliged to draw some Madonna. All those that saw it, kissed the 000 ground before it, with their foreheads on the earth. The

* The Abuna's house is a kind of sanctuary, in which criminals are protected from massacre, not from trial. They are sometimes tried there by the royal judges, or dragged from it to the tribunal.

[p. 56]

4: Alvarez M-5 (1520-1526) 1881
MP5 Amhara MP5

693 he hears the parties until he has determined upon it, and then he goes and relates the cause to the Barnagais, who gives the sentence: if it is a small cause, or if the parties wish it, the Alicaxi gives sentence, and the cause is concluded. Moreover, in all judgments, whether the Barnagais or the Alicaxi judges, there must be present an honourable man, whom they call by the name of his office Malaganha, who is like a tabellion or notary of Prester John, and if either of the parties wishes to appeal, he requires from this man the certifying of the cause for Prester John and his judges. All the lords of the countries of any of the kingdoms of Prester John have an Alicaxi and a Malaganha appointed by the Prester; so also have the captains subject to the Barnagais and to the other great lords. The gentlemen who are about the house of the Barnagais, and other grandees who come on business, have this manner of coming from their abodes. Whilst at the place he is living at he mounts his mule, seven, eight, or ten men on foot go before him as far as the first gate, and there he dismounts. If he is a person of greater importance, he takes seven, eight, or ten mules, or else three or four, according as the person is. So he dismounts at the first gate, and arrives at the second, after that, if they are bidden at once to enter, they go in, if not, they sit outside like beehives in the sun, without any other pastime. All these honourable persons wear sheep skins at
[292] their necks or on their shoulders, and he who wears the skin of a lion, tiger, or ounce, is more honourable. When
576 they come before the lord they take off the skin, as we take off our caps. Whilst we were in this town of Barra on a
721 market day, they made a solemn proclamation that the Barnagais intended to make war on the Nobiis, five or six days' journey from the limits of his country, towards Egypt, neighbouring to the countries of Canfilla and Dafolha,[1] which are subject to the Barnagais, as I have before mentioned.

[1] Dafilla.

8: Rey G-5 (1910-1920)1935
MP5 Amhara MP5

to be necessary for ordination: payment of moderate fees ranging up to $5 (about 10s. to-day) appears to be all that is required. In this direction matters do not seem to have progressed much since Bruce wrote in 1790 giving the following description of an ordination:

"A number of men and children present themselves at a distance, and there stand from humility, not daring to approach him. He then asks who they are, and they tell him they want to be deacons (*debtera*). On this with a small iron cross on his hands after making two or three signs, he blows with his mouth twice or thrice upon them, saying, 'Let them be deacons'. I saw once all the army of Begemder made deacons, just returned from shedding the blood of 10,000 men, thus drawn up in Aylo Meidan, and the Abouna standing at the Church of St. Raphael, about a quarter of a mile distant from them. With these mingled about 1000 women, who consequently, having part of the same blast and brandishment of the Cross, were as good deacons as the rest."

It is highly regrettable in the interests of Abyssinia that the priesthood, being what they are, should exercise so much power and influence. This is no doubt attributable to a variety of causes, to tradition, wealth, land ownership, and also to the fact that they (or some of them) are the only persons in the country who understand the ancient Geze language in which the Code of Law (the *Fetha Nagast*) and other similar works are written. This gives them a great "pull", and one result is that they are an indispensable adjunct to all the judges, who are very much in their hands.

11:Levine Z-4,5 (1958-1961)1965 MP5 Amhara MP5

It was at this time that the *makuānnent* came into their own. More unabashedly than ever they constituted, not a hereditary aristocracy in corporate opposition to the king, but a plurality of proud centers of rank—partly inherited, partly achieved—enjoying virtual autonomy. To move toward a modern nation it would be necessary to brake their centrifugal force.

The Clergy

Like the nobility, the clergy may be divided into those who are significant at the national level and those who are primarily local dignitaries. The former reside close to the imperial court, while the latter are thickly distributed around monasteries, churches, and wildernesses all over the country.

The highest ecclesiastical authority in Abyssinia was the *abuna* who, from the time of Frumentius in the fourth century until the death of Abuna Qerlos in 1949, was with few exceptions an appointee of the Coptic Patriarch at Alexandria. Chosen from the Egyptian monks of the convent of St. Anthony near the Red Sea, the *abuna* was brought, at great expense to the emperors, to live out his life in an alien land. Ignorant of the language and customs of the country, he played little part in the conduct of church affairs or in affairs of court; and when he did try to do so, his efforts were usually abruptly checked by jealous clerics and suspicious kings. His functions were purely ritual, but indispensable: he alone had authority to anoint and crown the emperor, to confer orders, and to absolve vows. From numerous revenues, rents, and fees, the *abuna* enjoyed a considerable income. Like the emperor, he was regarded as sacred because of the charisma of his office, and spent most of his time secluded from the public.[89]

Second in rank was the *eçhagē*, an appointment made by the emperor. This was the traditional title of the abbot of the convent of Dabra Libānos in Shoa, which in the course of the fourteenth and fifteenth centuries gained hegemony over Abyssinian monasticism. The *eçhagē* served as administrative head of the church and had jurisdiction over all monks and monasteries. The most esteemed of the Ethiopian clergy, he tended to wield more actual power than the *abuna*. His provincial deputies, called *liqa kāhenāt*, controlled the secular clergy. This office was also bestowed by the emperor, and its functions included presenting candidates for ordination and deciding questions of protocol in connection with religious ceremonies.

In addition to these supreme dignitaries of the church, a small number of churchmen enjoyed pre-eminent status by virtue of their activities at the imperial court. These included the *aqābē sa'āt* ("guardian of the [canonical] hours"), the chief ecclesiastic at court, and during part of the reign of Zar'a Yā'qob the only official with unrestricted access to the king; the *qēs hāṭsē* ("king's chaplain"); the *liqa dabtarā* ("chief of the *dabtarā*"); and *liqa mammerān* ("chief of the learned men"). These four served as the four su-

11:Levine Z-4,5 (1958-1961)1965 MP5 Amhara MP5

preme judges at the royal court, and the *aqābē sa'āt* ranked third—in some lists, first—in the official order of precedence of all court dignitaries.[40]

One other church dignitary, finally, was the *nebra ed*, chief of the sacred district of Aksum, who always enjoyed a high position at the royal court. When appointed by the emperor (instead of by the provincial governor who sometimes possessed that authority), the *nebra ed* enjoyed the rare privilege of being permitted to sit while speaking in the event of his involvement in litigation.

The status of the highest ecclesiastical dignitaries was based on approximately the same factors as those which determined the status of secular nobility: royal favor; family background, in the case of those whose fathers were important nobles or noted churchmen; and the possession of wealth, political power, and imposing titles.[41] The same was true of their regional counterparts, the *alaqā*, "chiefs" of large churches and monasteries, whose wealth, power, and leisurely mode of life gave them, in Plowden's opinion, "perhaps the most enviable position in Abyssinia."[42]

The status of the clergy as a whole, however, rested on three other principles which are not affected by royal favor, birth, or worldly possessions. These were: contact with the most sacred symbols of religious authority; ascetic piety; and religious learning. Broadly speaking, in Abyssinia these three principles have been embodied primarily in three distinct roles, namely, those of priest, monk, and *dabtārā*.

A normal preparation for these roles—necessarily so, in the case of the priesthood—is service as a deacon. Ability to read is, now as before, a requisite qualification for the diaconate, but that requirement has in the past often been overlooked. More important has been the requirement of ordination by the *abuna*. Ordination formerly took place in the company of hundreds of other aspirants and, when there was uncertainty about the future availability of an *abuna*, even babes in arms were admitted.[43]

The traditional garb of the deacon is a yellowish cape made of sheepskins, though on holidays the officiating deacons may be dressed in richly colored silk robes like the priests. The duties of the deacon—and they are accounted great and secret privileges—are to prepare the sacramental bread, fetch the holy water, and assist at the Mass (the performance of which normally requires two priests and three deacons).

On reaching puberty a deacon is no longer supposed to serve in the church, for fear that he will become "impure." At that time he may decide to prepare for the priesthood. For this two qualifications must be met. He must have completed his study of reading and, ideally, of *zēmā*, the chants that are intoned in the liturgy of the Mass. These matters he may learn from the older clergy during his service as a deacon, or from his father, who, in many cases, is a priest himself. Otherwise, he goes off in search of a master. He

11:Levine Z-4,5 (1958-1961)1965 MP5 Amhara MP5

175 Finally, by reorganizing the provincial administration through the bureau-
178 cratic machinery of the Ministry of Interior, the power and prestige of
631 regional appointments have been reduced. The authority of the central gov-
642 ernment has been enhanced by redrawing the provincial boundaries so as to cut across, in many cases, what were traditional administrative regions. Governors at all levels have been made ordinary employees of the Ministry of Interior, with assistants and secretaries provided by the Ministry, who serve as a constant check on their activities. Earlier in his reign, Haile Selassie deprived the great provincial governors of the right to order capital punishment and of the prerogative of conferring lesser titles.

178 Stripped of their military functions, large revenues, and other means of
525 building up their positions, members of the most important noble families
631 have had no alternative but to submit totally to the sovereign authority of
642 Haile Selassie. This has meant, in most instances, their relegation to posts of
646 high prestige but little consequence: diplomatic posts abroad and, more commonly, the senate. Established by the Constitution of 1931 as the upper house of parliament, the senate was to consist of members "appointed by His Majesty the Emperor from among the Nobility (Mekuanent) who have for a long time served his Empire as Princes or Ministers, Judges or high military officers." The institution was re-affirmed in the revised Constitution of 1955, and has provided, as one of its continuing functions, an outlet for dignitaries with too much prestige of their own to be trusted with administrative positions or permitted to reside in their home regions.

565 Many lesser nobles have remained in the provinces with appointments as
631 regional governors and judges. Because of the shift of political authority to
693 Addis Ababa, they tend to feel forsaken and dispossessed. They regard the
578 behavior of those who occupy high governmental posts in Addis Ababa as selfish and corrupt, and view with no little bitterness the fact that youngsters with college degrees earn a great deal more than they. (A subdistrict gov-
[465] ernor, for example, earns Eth$50 per month, while those with an A.B. automatically start any government job at Eth$450.)

178 Nevertheless, these lesser nobles continue to comport themselves in the
565 aristocratic manner of the old nobility and retain their high status in the
554 eyes of the local populace. However modest their resources now—and many continue to enjoy quite sizable holdings of land—they are proud of what-
[571] ever titles and offices have been given them. Though their part in the national political structure and status system is not so weighty as that of their forebears, they remain the only fully accepted secular elite in the provinces. It is they who issue the day-to-day commands to the people, and they alone for whom the peasantry has unflinching respect. Short of a brutally totalitarian program that is willing to ignore the sentiments of the mass of tradition-